

Testimony of
Carlos M. Ramirez
United States Commissioner
International Boundary and Water Commission
United States and Mexico

Before the

Committee on Resources
Subcommittee on Water and Power

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Mr. Chairman and Members of the Committee, I am pleased to come before you today to present this testimony concerning deliveries of waters by Mexico to the United States under the United States - Mexico Treaty for Utilization of Waters of the Colorado and Tijuana Rivers and of the Rio Grande, signed February 3, 1944 (1944 Water Treaty) and on the efforts made by the United States Section of the IBWC to obtain additional water deliveries from Mexico in fulfillment of its obligations to the United States under the 1944 Water Treaty.

Background

The IBWC is an international organization charged by the United States and Mexican Governments with the execution of the provisions of the 1944 Water Treaty and settlement of differences that may arise from such application. The IBWC is made up of a United States Section and a Mexican Section. The United States Section is an independent federal agency that operates under the foreign policy guidance of the Department of State.

The Treaty allocates to each country the waters of the Rio Grande from Fort Quitman, Texas to the Gulf of Mexico, a length of some 1,100 miles. The Treaty assigns to the IBWC the responsibility to jointly measure and account the waters allocated to each country. The IBWC is also responsible, pursuant to the 1944 Treaty, for the construction, and operation and maintenance of international storage dams (Amistad and Falcon Dams) that allow both countries to make the maximum use of their allotted waters. Amistad and Falcon Dams allow control and storage of waters from sources in the two countries, which can then be released for later use as needed. The Lower Rio Grande Valley in Texas depends on these stored waters for irrigation and municipal and industrial uses.

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Allocation of Waters

Under Article 4 of the 1944 Water Treaty, the United States is allotted all the waters from tributaries in the United States. Mexico is allotted all the waters from tributaries in Mexico below Falcon Dam. Both countries are allotted one-half of the flows in the main stem of the Rio Grande and from unmeasured tributaries not specifically allotted. Mexico is allotted two-thirds of the waters that arrive in the Rio Grande from six Mexican tributaries between Fort Quitman, Texas and Falcon Dam (treaty tributaries). The United States is allotted one-third of the flows that arrive in the Rio Grande from those treaty tributaries a minimum of 350,000 acre-feet¹ as annual average in cycles of five years. Should a cycle of five years end in deficit for reasons of extraordinary drought or serious accident to the system, that deficit shall be made up in the next five year cycle. This provision was established because of the erratic nature of the flows in the Mexican tributaries. The treaty also considered this erratic nature of the flows when it authorized the IBWC to construct and operate and maintain the International Dams Amistad and Falcon.

Water Deliveries 1992-1997

During the period between October 3, 1992 and October 2, 1997, Mexico delivered to the United States 726,151 acre-feet of water towards fulfillment of its obligation under Article 4, Paragraph B of the 1944 Water Treaty. This resulted in a deficit of 1,023,849 acre-feet of water owed to the United States as of September 30, 1997.

Water Debt Coverage 1997-2000

- In late 1997, the United States Section of the IBWC (U.S. Section) requested agreement with the Mexican Section of the IBWC on the volume in deficit and application of provisions in IBWC Minute No. 234² for coverage of the deficit with waters from Mexico's portion of the Treaty Tributaries and the transfer to United States ownership of Mexican-owned water in storage at the international Falcon and Amistad Reservoirs. Mexico provided the U.S. Section a debt payment proposal however in April 1999, the U.S. Section objected to the proposal and urged application of the Minute No. 234 provisions for debt coverage with Mexican waters and requested a technical meeting with the Mexican water authorities, in the context of recent agreements that Mexico provide more detailed information concerning conditions in the Treaty Tributary basins. During a technical meeting in 1999, Mexico informed that drought conditions had made it difficult for Mexico to provide the runoff and reiterated Mexico's intention to cover the deficit when excess flows became available. Mexico stated that Rio Conchos Basin reservoirs were at 26 percent of conservation capacity and that the reservoirs in the Salado Basin, the larger of the Treaty Tributary Basins was at 11 percent of storage capacity. Mexico reported lower than normal precipitation for the 1993 – 1998 period.

The U.S. Section requested more detailed information but observed in late 1999, that based upon the limited information Mexico had provided there appeared to be an opportunity for Mexico to operate its Treaty Tributary reservoirs in a manner that would allow application of provisions of Minute No. 234 relating to debt coverage with Mexican owned waters. Further, the U.S. Section observed that storage of Mexican owned waters at the international reservoirs was such that there was also an opportunity for Mexico to transfer ownership of some of those waters to the United States as provided in Minute No. 234. Finally, the U.S. Section observed that water deliveries in the current cycle (1997-2002) were significantly below the annual average of 350,000 acre-foot obligation and urged the operation of Mexico's Treaty Tributary reservoirs in a manner that targets the United States allotment. At technical meetings in early 2000, Mexico informed that the deficit could only be covered in the event of excess flows, but agreed to an emergency release of waters from the Rio Conchos to increase Mexican storage at the international dams where the

waters could be transferred to United States ownership.

The U.S. Section in March 2000, reiterated its call for a good faith implementation plan comprised of immediate water releases from the Conchos River and parallel mid and longer term planning efforts designed to cover the deficit and to target the U.S. allocation in future years. In tandem with these efforts, the United States Department of State initiated a series of demarches with the Mexican Foreign Ministry in which it urged Mexico to honor its treaty obligations to the United States. In response, the Mexican Section in March 2000, agreed to transfer ownership of 137,821 acre-feet from international storage in Amistad and Falcon Reservoirs to the United States and to temporarily assign to U.S. ownership its 50 percent share of the unmeasured tributary flows from Mexico in the Rio Grande reach between Fort Quitman and Falcon Dam. These actions were intended to provide to the United States the minimum annual average of 350,000 acre-feet and an additional volume, which the U.S. Section considered as a total target goal of 400,000 acre-feet for the water year of October 1, 1999 through September 30, 2000. This volume coincided with the request of Texas irrigators.

At the close of the third year of the present five-year accounting cycle, that is from October 1, 1997 – September 30, 2000, Mexico had delivered a total of 407,087 acre-feet of water leaving a prior cycle deficit and the current cycle obligation of 1,381,362 acre-feet of water.

U.S. Allocation Target Framework Talks 2000-2001

In June 2001, the IBWC opened discussion concerning a framework that Mexico could adopt with respect to management of its treaty tributary reservoirs that would target the annual United States allotment as a high national priority. However, these discussions were deferred in order to develop a water delivery plan for the October 1, 2000 – September 30, 2001 cycle year.

Minute No. 307 Water Deliveries

In August 2000, the U.S. Section urged the Mexican Section to release more waters from storage in Luis L. Leon Dam on the Conchos River and Venustiano Carranza Dam on the Salado River; resume technical discussions on watershed conditions; continue assignment of Mexico's allocation of the unmeasured tributary waters to the U.S.; and adopt a framework for Treaty Tributary reservoir operations that would target the annual obligation to the United States as a high national priority. Mexico agreed to release waters from Luis L. Leon Dam and Venustiano Carranza Dam, of which one-third would be allotted to the United States and agreed as well to the limited assignment of its portion of the unmeasured tributary waters to the United States. In the months that followed, the U.S. Section urged Mexico to commit to deliver 600,000 acre-feet of water to the United States between October 1, 2000 and September 30, 2001, i.e. the fourth year of the current cycle to cover the 350,000 acre-foot annual average and a good faith effort in repayment of the outstanding deficit. President Bush reinforced the need for Mexico to commit to making additional water deliveries at his meeting with Mexican President Vicente Fox on February 28, 2001 in Guanajuato, Mexico. In response to the President's initiative, IBWC negotiations resumed in Washington under the auspices of the Department of State. This resulted in the conclusion of IBWC Minute No. 307³. Under Minute No. 307, Mexico and the United States agreed to a framework of actions by Mexico committed to ensure that 600,000 acre-feet of water would be provided to the United States by September 30, 2001, at the latest, based on runoff scenarios described in the agreement. Minute No. 307 also identified contingent sources of water should the runoff scenarios not produce the water envisioned. Under Minute No. 307 the United States and Mexico also agreed to continue discussions within the IBWC to arrive at

additional measures concerning the prior cycle deficit and the current cycle obligation by December 2001. Finally, Minute No. 307 called for cooperation by the two Governments concerning drought management and sustainable management of the Rio Grande basin from Fort Quitman to Falcon Dam.

Mexico halted releases from Carranza dam before the volume to be delivered to the United States under Minute No. 307 was accomplished. Mexico stopped the releases because of alleged environmental impact resulting from low storage. Further, Mexico had overestimated the storage. Mexico also faced protests by its affected water users. Concurrently Mexico was providing to the U.S., flows for the unmeasured tributaries and treaty tributary. In July 2001, injunctions were filed in Mexican Federal courts preventing any further transfers of the unmeasured tributary waters to the U.S. The U.S. Section insisted that Mexico comply with the obligation assumed in Minute No. 307 concerning this source of water. The lifting of these injunctions led to the transfer of 92,421 acre-feet to the U.S. ownership in February 2002, which was applied to the period that ended on September 2001.

By February 2002, Mexico had been credited with delivering 427,544 acre-feet of the 600,000 acre-feet it had ensured that it would provide in Minute No.307. This leaves a shortfall of 172,456 acre-feet.

From October 1, 1997 – September 30, 2001, Mexico delivered a total of 1,120,032 acre-feet. As of September 30, 2001, the prior cycle deficit and the current cycle obligation totaled 1,303,818 acre-feet of water owed to the United States.

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Current Situation

The U.S. Section on a number of occasions since October 2001 has asserted its concerns to Mexico that the terms of Minute No.307 have not been fully met and has requested technical talks to arrive at a remedy for the Minute No. 307 shortfall and a water delivery plan for the fifth year of the current cycle as required under Minute No. 307. The U.S. Section developed a plan for the fifth year and a formula under which Mexico would prioritize its treaty obligation to the United States in December 2001 and put forth that plan for the consideration of the Mexican Section in early January 2002. To date the Mexican Section, although continually pressed to do so by the U.S. Section, has not given a formal response. The Department of State has likewise urged Mexico to conduct immediate technical talks within the IBWC towards resolution of this matter. President Bush raised the outstanding deficit in waters owed to the United States during his bilateral meeting with President Fox at Monterrey, Mexico on March 22, 2002 and urged immediate water deliveries to the United States towards fulfillment of Mexico's treaty obligation. The Mexican Government continues to assert that it does not have sufficient water under current climatic conditions to make additional water deliveries to the United States and has diverted attention for immediate deliveries to the need to develop long-term conservation measures within Mexico supported by funding from the North American Development Bank.

The U.S. Section of the IBWC intends to continue its efforts to press the Mexican Section for technical talks aimed at identifying additional sources from which Mexico can provide additional water in partial fulfillment of its obligations under the 1944 Water Treaty. The U.S. Section of the IBWC remains committed as well toward reaching agreement with Mexico on a formula by which Mexico would commit to giving the highest priority to honoring its treaty commitments to the United States in future years. The U.S. Section of the IBWC believes that the 1944 Water Treaty can be made to work and should remain in force

for the benefit of both the United States and Mexico.

The U.S. Section is also well aware of the urgent need for water, and the economic hardships that the South Texas irrigators are suffering. We continue to urge Mexico to consider the various water sources and volumes identified in recent technical talks that would make certain volumes of water available to the South Texas irrigators.

Thank you for the opportunity to testify today. I would be pleased to respond to any questions you or other members of the Committee may have.

[1An acre-foot is the volume of water in an acre to a depth of one foot or some 325,850 gallons.](#)

[2](#) IBWC Minute No. 234, Waters of the Rio Grande Allotted to the United States from the Conchos, San Diego, San Rodrigo, Escondido and Salado Rivers and the Las Vacas Arroyo, signed December 2, 1969 entered into force December 19, 1969.

[3](#) IBWC Minute No.307, Partial Coverage of Allocation of the Rio Grande Treaty Tributary Water Deficit from Fort Quitman to Falcon Dam, signed March 16, 2001 in Washington, entered into force as an agreement between the United States and Mexico by exchange of diplomatic notes March 16, 2001.